IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 248 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

1 to 5 NO

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G.S.R.T.C. - Petitioner(s)

Versus

ABBASBHAI HUSAINBHAI KHATRI C/O - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
MR MUKESH H RATHOD for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 26/06/2006

ORAL JUDGMENT

1. Although the petition is styled as a petition under Articles 226 and 227 of the Constitution, it really challenges the award and order dated 25.4.2005 of the Industrial Tribunal,

Rajkot in Reference (IT) No.232 of 1999 whereby the order of punishment made against the respondent was modified and the punishment was reduced.

2. The industrial dispute regarding legality and propriety of punishment was referred to the Industrial Tribunal and, while adjudicating the same after appreciating the evidence on record, the Tribunal arrived at the conclusion that the report of the enquiry officer was perverse and baseless. After an elaborate discussion of the evidence on record, it is observed by the Tribunal that the finding of the enquiry officer to the effect that the respondent had admitted his guilt was perverse. However, the fact remained that, out of 80 passengers, 79 passengers were issued tickets by the respondent within about ten minutes of starting of the bus and only one old lady was not issued tickets worth Rs.1.50. The appellate authority of the petitioner itself had earlier reduced the punishment imposed against the respondent and having regard to the facts and circumstances, the punishment was further reduced by the impugned award to the extent that only stoppage of one increment without permanent effect was substituted as the punishment.

3. Neither any jurisdictional error nor any error apparent on the face of the record could be pointed out from the impugned award which was, as seen earlier, based upon elaborate analysis and appreciation of evidence on record. Therefore, the petition which could have more appropriately been made and entertained only under Article 227 of the Constitution, is not required to be entertained to interfere with the impugned award. Accordingly, it is dismissed and Rule is discharged with no order as to costs.

Sd/-

(D.H.WAGHELA, J.)

(KMG Thilake)